

ORIGINAL

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KOBRA INTERNATIONAL, LTD. d/b/a
NICOLE MILLER, LTD., a New York
Corporation,

Plaintiff,

- against -

BOSTON PROPER, INC., a Florida
Corporation; and JOHN DOES 1-15; XYZ
CORPORATIONS 1-15,

Defendants.

CIVIL ACTION NO. 07-CV-9894 (RJH)

**APPLICATION FOR ENTRY OF
DEFAULT**

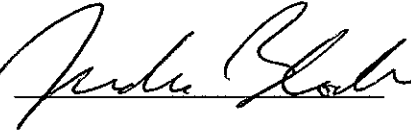
Pursuant to Federal Rule of Civil Procedure 55(a) and Rule 55.1 of the Civil Rules for the Southern District of New York, Plaintiff Kobra International, Ltd. d/b/a Nicole Miller, Ltd. ("Plaintiff") hereby applies to the Clerk of the Court for an entry of default against Defendant BOSTON PROPER, INC. ("Defaulting Defendant") based on the supporting declaration of Deidre Blocker.

Plaintiff respectfully requests that the Clerk of the Court enter default against the Defaulting Defendant.

Dated: New York, New York
December 13, 2007

Respectfully submitted,

GREENBERG TRAURIG, LLP

By: 

G. Roxanne Elings (GE 8321)

Deidre D. Blocker (DB 0762)

200 Park Avenue, MetLife Building

New York, NY 10166

(212) 801-9200

Attorney for Plaintiff

*Kobra International, Ltd. d/b/a Nicole
Miller, Ltd.*

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CIVIL ACTION NO. 07-CV-9894 (RJH)

**DECLARATION OF DEIDRE
BLOCKER IN SUPPORT OF
PLAINTIFF'S APPLICATION FOR
ENTRY OF DEFAULT**

DEIDRE BLOCKER, of full age and under penalty of perjury, declares and state as follows:

1. I am an attorney licensed to practice law in the State of New York and am admitted to practice before the bars of the Southern and Eastern Districts of New York. I am an associate at the law firm of Greenberg Traurig, LLP, located at 200 Park Avenue, New York, New York 10166. Greenberg Traurig, LLP is counsel to plaintiff in this matter, Kobra International, Ltd. d/b/a Nicole Miller, Ltd. ("Plaintiff"). I submit this Declaration pursuant to Federal Rule of Civil Procedure 55(a) and Rule 55.1 of the Civil Rules for the Southern District of New York in support of Plaintiff's Application for an Entry of Default against Defendant BOSTON PROPER, INC. ("Defaulting Defendant"). The Defaulting Defendant is not an infant, and to the best of my knowledge is not in the

military and is not incompetent. I have personal knowledge of the following facts, and could competently testify thereto if called.

2. Plaintiff filed its Complaint in this action alleging (a) copyright infringement in violation of the Copyright Law, 17 U.S.C. §§501, *et. seq.*; (b) unfair competition and false designation of origin in violation of 15 U.S.C. §1125(a); (c) unlawful and deceptive acts and practices in violation of N.Y. Gen. Bus. Law §349; and (d) unfair competition under the laws of the State of New York on November 8, 2007 against BOSTON PROPER, INC., a Florida Corporation; and JOHN DOES 1-15; XYZ CORPORATIONS 1-15. Plaintiff sought injunctive relief, statutory and actual damages and attorneys' fees and costs in its Complaint based on Defendants' willful infringement of Plaintiff's federally registered copyrights.

3. Plaintiff served the Complaint and Summons upon the Defaulting Defendant at 6500 Park Of Commerce Boulevard, Boca Raton, Florida 33487 on November 9, 2007. Annexed hereto as Exhibit A is a copy of the return of service filed with the Clerk of the Court.

4. The Defaulting Defendant has failed to answer or otherwise respond to the Complaint and the time for the Defaulting Defendant to answer or otherwise respond expired November 30, 2007. Plaintiff has not granted to the Defaulting Defendant an extension of time within which to answer or otherwise respond thereto.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 13th day of December, 2007 in New York, New York.

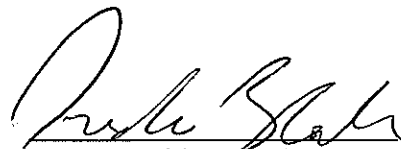

Deidre Blocker, Esq.

EXHIBIT A

AFFIDAVIT OF SERVICE

UNITED STATES DISTRICT COURT
Southern District of New York

Index Number: 07-CIV-9894

Date Filed: 11/8/2007

Plaintiff:

NICOLE MILLER, LTD D/B/A KOBRA INTERNATIONAL LTD.,

vs.

Defendant:

BOSTON PROPER INC.,

For:

Roxanne Elings

Greenberg Traurig, LLP

Received by Rock Legal Services & Investigations Inc on the 9th day of November, 2007 at 1:29 pm to be served on Boston Proper Inc., 6500 Park Of Commerce Blvd., Boca Raton, FL 33487.

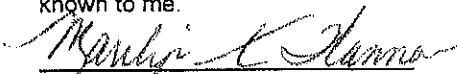
I, Pennie Cain, being duly sworn, depose and say that on the 9th day of November, 2007 at 2:25 pm, I:

CORPORATE: served by delivering a true copy of the **Summons, Complaint, & Plaintiffs' Rule Certification** with the date and hour of service endorsed thereon by me, to: **Ed Murtagh as Vice President for Boston Proper Inc.,** at the address of: **6500 Park Of Commerce Blvd., Boca Raton, FL 33487,** and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 55, Sex: M, Race/Skin Color: White, Height: 5'9, Weight: 170, Hair: Black/Grey, Glasses: N

I hereby certify I have read the foregoing and the facts stated are true and correct, I am over the age of 18, have no interest in the above action, and am a Certified Process Server, in good standing, in the county in which service was effected in accordance with State Statutes.

Subscribed and Sworn to before me on the 17th day of November, 2007 by the affiant who is personally known to me.


NOTARY PUBLIC

NOTARY PUBLIC-STATE OF FLORIDA
Marilyn T. Hannan
Commission # DD495297
Expires: NOV 30, 2009
Bonded Thru Atlantic Bonding Co., Inc.


Pennie Cain
Process Server #931

Rock Legal Services & Investigations Inc
809 North Dixie Highway
Suite 101
West Palm Beach, FL 33401
(561) 296-7574
Our Job Serial Number: 2007022699
Ref: 066524.011500

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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Plaintiff,

- against -

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CORPORATIONS 1-15,

Defendants.

CIVIL ACTION NO. 07-CV-9894 (RJH)

CLERK'S CERTIFICATE OF DEFAULT

Plaintiff Kobra International, Ltd. d/b/a Nicole Miller, Ltd. ("Plaintiff"), having applied to the Clerk of the Court for entry of default against Defendant BOSTON PROPER INC. (the "Defaulting Defendant"), and the Plaintiff having shown by Affidavit to the satisfaction of the Clerk of the Court that the Defaulting Defendant has failed to plead or otherwise defend in response to the Complaint filed in this action within the time permitted;

NOW, THEREFORE, I, J. MICHAEL MCMAHON, the Clerk of the United States District Court for the Southern District of New York, do hereby certify that this action commenced on November 8, 2007, with the filing of a summons and complaint, a copy of the summons and complaint was served on the Defaulting Defendant on November 9, 2007 by personal service on an officer, director, managing or general agent, or other person authorized by appointment or by law to receive service for this Defendant at 6500 Park Of Commerce Boulevard, Boca Raton, Florida 33487, and that proof of service thereof was filed on November 20, 2007.

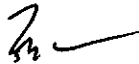
I further certify that the docket entries indicate that the Defaulting Defendant has not filed an answer or otherwise moved with respect to the Complaint herein. The default of Defendant BOSTON PROPER INC. is hereby noted.

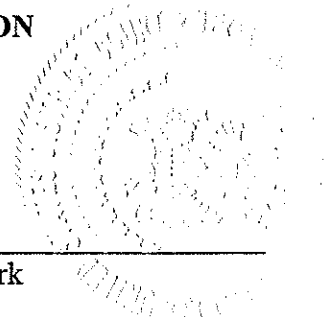
DATED: New York, New York

December 13, 2007

J. MICHAEL MCMAHON
CLERK OF THE COURT

By: _____


Deputy Clerk



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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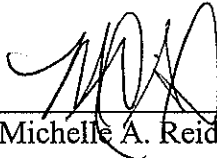
Defendants.

CIVIL ACTION NO. 07-CV-9894 (RJH)

CERTIFICATE OF SERVICE

This is to certify that on **December 14, 2007**, I, Michelle A. Reid, caused copies of the within **Application for Entry of Default with Declaration in Support and the Clerk's Certificate of Default** to be served by overnight Federal Express upon:

Boston Proper Inc.
6500 Park of Commerce Boulevard
Boca Raton, Florida 33487



Michelle A. Reid



Version
5.23.1.1

User: Michelle A. Reid
212-801-6435
200 Park Avenue



Routing Slip - DOMESTIC SHIPMENT - Route to Mailroom for processing

Package ID:



* 1 2 1 4 2 0 0 7 2 0 - 5 4 3 0 - 6 3 7 *

Sender's Information:

Sender's Name: Michelle A. Reid
Building/Location: 200 Park Avenue
Client.Matter: 066524.011500

Phone: 212-801-6435
Department: -

Recipient's Information:

Name: Ed Murtagh, Vice President
Company: Boston Proper
Address1: 6500 Park of Commerce Blvd.
City: Boca Raton

Phone Number: 2128016435
RecipientsEmail: -
Address2: -
State: FL Zip: 33487

Package Information:

Service Type: FedEx Priority Overnight
Envelope

ShipDate: 12/14/2007

Payment: Sender

Account Number: -

Sat. Del.: No COD: No HAL: No Residential Delivery: No Signature Service Type: NULL

Weight: 1 Declared Value: \$0

Mail Center Instructions:

none

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